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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,	)	No. 3-05-70991 EDL
	)	
Plaintiff,	)	[PROPOSED] ORDER AND STIPULATION
	)	CONTINUING PRELIMINARY
v.	)	HEARING/ARRAIGNMENT; WAIVING
	)	TIME UNDER RULE 5.1 AND
GONZALO MAYORGA,	)	EXCLUDING TIME FROM JUNE 22, 2006
	)	TO JUNE 26, 2006 FROM THE SPEEDY
Defendant.	)	TRIAL ACT CALCULATION
	)	(18 U.S.C. § 3161(h)(8)(A))

The parties appeared before the Hon. Elizabeth D. Laporte on June 13, 2006 for a bail review hearing. At that time, the Court: (1) scheduled a new preliminary hearing/arraignment date of June 26, 2006 at 9:30 a.m., before the Honorable Maria-Elena James; (2) documented the defendant's waiver of time limits under Federal Rule of Criminal Procedure 5.1; and (3) documented the exclusion of time under the Speedy Trial Act, 18 U.S.C. § 3161(h)(8)(A), from June 22, 2006 to June 26, 2006.

Because the parties are investigating recent events and are close to a pre-indictment resolution of this matter, the parties have agreed, and the Court finds and holds, as follows:

1. The defendant waives the time limits for a preliminary hearing under Federal Rule of Criminal Procedure 5.1. Failure to grant the requested continuance would unreasonably deny the

1 defense reasonable time necessary for effective preparation, taking into account the exercise of  
 2 due diligence and recent events that need to be investigated, and would deny the defendant  
 3 continuity of counsel.

4 2. Counsel for the defense believes that postponing the preliminary hearing is in his  
 5 client's best interest, and that it is not in his client's interest for the United States to indict the  
 6 case before the currently scheduled preliminary hearing/arraignment date. The parties are close  
 7 to a pre-indictment disposition of the case, and expect to have the case resolved in the very near  
 8 future.

9 3. The defendant agreed to an exclusion of time under the Speedy Trial Act. Failure to  
 10 grant the requested continuance would unreasonably deny both government and defense counsel  
 11 reasonable time necessary for effective preparation, taking into account the exercise of due  
 12 diligence, and the need for both sides to investigate the facts of the case, and would deny the  
 13 defendant and the government continuity of counsel.

14 4. Given these circumstances, the Court found that the ends of justice served by  
 15 excluding the period from June 22, 2006 to June 26, 2006, outweigh the best interest of the  
 16 public and the defendant in a speedy trial. Id. § 3161(h)(8)(A).

17 5. Accordingly, and with the consent of the defendant, the Court ordered that the period  
 18 from June 22, 2006 to June 26, 2006 be excluded from Speedy Trial Act calculations under 18  
 19 U.S.C. § 3161(h)(8)(A) & (B)(iv).

20 4. The Court scheduled a new preliminary hearing/arraignment date of June 26, 2006, at  
 21 9:30 a.m., before the Honorable Maria-Elena James.

22 IT IS SO STIPULATED.

23 DATED: June 16, 2006

24 /S/  
 TRACIE L. BROWN  
 Assistant United States Attorney

25 DATED: June 20, 2006

26 /S/  
 STEVEN KALAR  
 Attorney for GONZALO MAYORGA

27 IT IS SO ORDERED.  
 28 DATED: June 21, 2006

Elizabeth D. Laporte  
 THE HON. ELIZABETH D. LAPORTE  
 United States Magistrate Judge